

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 00-6360-CR-DIMITROULEAS

UNITED STATES OF AMERICA,

Plaintiff,

v.

FRANCISCO ORTEGA,

Defendant.

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**DEFENDANT'S OBJECTIONS TO THE
PRE-SENTENCE INVESTIGATION REPORT**

Defendant, FRANCISCO ORTEGA, by and through undersigned counsel, files his
Objections to the Pre-Sentence Investigation Report, and, as grounds therefore, states as follows:

PART A. THE OFFENSE

Paragraph 24: Objection. The parties have stipulated that the loss amount attributed to
Defendant is \$37,150.00.

Paragraph 44: Objection. Pursuant to U.S.S.G. §2B1.1(b)(1)(G), the value of the loss is
\$37,150.00. Accordingly, a six (6) level increase is authorized.¹

Paragraph 49: Objection. The adjusted offense level (subtotal) should be twelve (12).

Paragraph 51: Objection. The total offensive level should be ten (10).

PART C. OFFENDER CHARACTERISTICS

Paragraph 68: Objection. Defendant's grandson is ten (10) years old, not ten (10) months old.

Paragraph 82: Objection. Defendant objects to a fine being imposed. See also, objection to
Paragraph 92, infra.

¹ United States v. Wilson, 993 F.2d 214, 217-18 (11th Cir. 1993).

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PART D. SENTENCING OPTIONS

Paragraph 84: Objection. Based on a total offense level of 10 and a criminal history category of 1, the guideline imprisonment range is 6-12 months.

Paragraph 85: Objection. Since the guideline range is in Zone B, and the Government has stipulated to the loss sub judice attributable to Defendant, a sentence of home detention should be imposed.

Paragraph 89: Objection. The applicable guideline range is in Zone B.

Paragraph 92: Objection. Defendant does not believe restitution is inapplicable but respectfully disagrees with the amount of same attributed to the Defendant as set forth in the PSI.

PART E. FACTORS THAT MAY WARRANT DEPARTURE

Paragraph 94: Defendant anticipates the Government may file a Motion for Downward Departure, pursuant to U.S.S.G. §5K1.1, and Defendant respectfully reserves the right to seek a downward departure, pursuant to U.S.S.G. §5K2.0, if necessary.

PART F. IMPACT OF THE PLEA AGREEMENT

Paragraph 95: Objection. The loss amount of \$85,150.00 is not attributable to this Defendant, pursuant to U.S.S.G. §2B1.1(b)(1)(G) and the Plea Agreement, Paragraphs 2(a) and 2(b).

Respectfully Submitted,

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By: 

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via United States mail this 26th day of April, 2001, to Donald F. Chase, Esq., Assistant United States Attorney, United States Attorney's Office, 500 E. Broward Blvd., Suite 700, Fort Lauderdale, Florida 33394, and Kenneth J. Gonzalez, U.S. Probation Officer, Room 315 U.S. Courthouse, 300 N.E. 1st Ave., Miami, FL 33132.


BRIAN H. BIEBER